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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/379,167	08/23/1999	BRUCE EISEN	M-7729-US	9947

7590 11/24/2004

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EXAMINER

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ART UNIT PAPER NUMBER

3622

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/379,167  
Filing Date: August 23, 1999  
Appellant(s): EISEN ET AL.

F. JASON FAR-HADIAN, Esq. Reg. No. 42,523  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the supplemental appeal brief filed 3/23/2004.

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This is in response to the supplemental appeal brief filed 3/23/2004.

**(1) *Real Party in Interest***

**A statement identifying the real party in interest is contained in the supplemental appeal brief.**

**(2) *Related Appeals and Interferences***

**A statement indicating that there are no related appeals and interferences is contained in the supplemental appeal brief.**

**(3) *Status of Claims***

**The statement of the status of the claims contained in the supplemental appeal brief is correct.**

**Claims 1-52 & 75-82 are pending.**

**(4) *Status of Amendments After Final***

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**The Appellant's statement of the status of amendments after final rejection contained in the supplemental appeal brief is correct (i.e., no amendments after final are pending).**

**(5) *Summary of Invention***

**The summary of invention contained in the supplemental appeal brief is representative of the summary of the invention, as found in the specification of the instant invention.**

**(6) *Issues***

**The Office finds agreement with Appellant's statement of the issues in the supplemental appeal brief.**

**(7) *Grouping of Claims***

**The Office finds agreement with Appellant's statement of the grouping of the claims as provided in the instant supplemental appeal brief arguments.**

**(8) *Claims Appealed***

**A correct copy of appealed claims appears in Appellant's brief.**

**(9) *Prior Art of Record***



Serial Number : 09/379,167

(Eisen et al.)

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**The following is a listing of the prior art of record relied upon in the rejections of claims under appeal.**

<b>Number</b>	<b>Name</b>	<b>Date</b>	
US 6,449,634	<u>Capiel</u>	Sept. 10, 2002	[US f/d: 1/29/1999]

**(10) *Grounds of Rejection***

**The following ground(s) of rejection are applicable to the appealed claims:**

**Claims 1-52 & 75-82 stand rejected under 35 U.S.C. 103( a ).**

**These rejections are set forth in the prior Office Actions as follows:**

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**REOPENING OF PROSECUTION/NEW GROUNDS OF REJECTION AFTER  
APPEAL**

**NON-FINAL REJECTION ON RCE**

**(PAPER #33)**

1. **In view of the Appeal Brief (paper#32) filed on 9/19/2003, PROSECUTION IS  
HEREBY REOPENED because new grounds of rejection are set forth below.**

**To avoid abandonment of the application, Appellant must exercise one of the  
following two options:**

**(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply  
under 37 CFR 1.113 (if this Office action is final); or,**

**(2) request reinstatement of the appeal.**

**If reinstatement of the appeal is requested, such request must be accompanied by a  
supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or  
1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).**

**Status of Claims**

2. **Claims 1-52 and 75-82 are pending.**

**CLAIM REJECTIONS — 35 U.S.C. §103(a)**

3. **Rejections Maintained.**

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**CLAIM REJECTIONS — 35 U.S.C. §103(a)**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-52 are rejected under 35 U.S.C. §103(a) as being unpatentable over Capiel, US 6,449,634 (09/10/2002) [US f/d: 01/29/1999] (herein referred to as "Capiel")

As per claim 1, Capiel (col. 12, ll. 53-61; and col. 13, ll. 10-25) discloses: "*sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . .*" and "*member\_id int. . . .*"

Capiel (col. 11, ll. 37-45; col. 11, ll. 50-67; and col. 12, ll. 1-50) discloses:

*getClientIDCmd.CommandText='select em\_client\_id from E-*

*Mail\_clients where name=?'*

*Set E-mailNameParm=getCliendIdCmd.CreateParameter (E-*

*mailparm',8,1)*

*getClientIDCmd.Parameters.Append E-mailNameParm*

*getClientIDCmd(0)=broswerType. . .*

Capiel (col. 1, ll. 43-67 and col. 2, ll. 1-24) discloses: "*The invention in addition tracks the responses of the E-mail clients to further refine the 'visual media'*"

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*group that responds positively to targeted advertisements with images. . . . the E-mail sensor server may . . . determine if a particular file format can be processed and displayed at the E-mail client. . . .”*

Capiel (col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest: “A method for electronically identifying a consumer without requiring consumer registration, the method comprising: embedding a unique identifier within a web site address, the unique identifier uniquely identifying an email recipient; including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites in the electronic mail message; providing the unique identifier to the server computer by way of sending the web site address to the server computer in a request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . .”

Capiel (col. 1, ll. 55-60) shows elements that suggest “tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web

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sites. . . ."; furthermore, Capiel performs the tracking without explicitly showing the use of cookies.

Capiel lacks an explicit recitation of "providing the unique identifier to the server computer by way of sending the web site address to the server computer in a request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . ."

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) and particularly the disclosure of Capiel (col. 12, ll. 53-61; and col. 13, ll. 10-25) i.e., "*sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . .*" and "*member\_id int. . . .*" and Capiel (col. 11, ll. 37-45; col. 11, ll. 50-67; and col. 12, ll. 1-50) which discloses:

*getClientIDCmd.CommandText='select em\_client\_id from E-Mail\_clients where name=?'*  
*Set E-mailNameParm=getCliendIdCmd.CreateParameter ('E-mailparm',8,1)*

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***"GetClientIDCmd.Parameters.Append E-mailNameParm******getClientIDCmd(0)=browserType. . .***

would have been selected in accordance with "providing the unique identifier to the server computer by way of sending the web site address to the server computer in a request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . ." because **selection of such features** would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 2, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 1, ll. 55-60; **col. 12, ll. 53-61; col. 13, ll. 10-25, and col. 11, ll. 37-45; col. 11, ll. 50-67; and col. 12, ll. 1-50**) shows "tracking the email recipient's movement within said one or more web sites. . . ."

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows "extracting the information that defines consumer activity based on said association to track consumer movement."

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Capiel (col. 12, ll. 9-43) shows “storing in at least one log file the unique identifier in association with the information that defines consumer activity. . . .”; even though,

Capiel lacks an explicit recitation of “storing in at least one log file the unique identifier in association with the information that defines consumer activity. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) would have been selected in accordance with “storing in at least one log file the unique identifier in association with the information that defines consumer activity. . . .” because such selection would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 3, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 3.

Capiel lacks an explicit recitation of “identifying an IP [Internet Protocol] of the client computer, wherein the IP address is automatically logged in correspondence with

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the information that defines consumer activity; and associating the unique identifier with the IP address. . . .”

“Official Notice” is taken that both the concept and the advantages of “identifying an IP [Internet Protocol] of the client computer, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with the IP address. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 4, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 4.

Capiel lacks an explicit recitation of the elements and limitations of claim 4.

“Official Notice” is taken that both the concept and the advantages of “identifying connection specific information related to the established connection between the client computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with the connection specific information



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such that information that defines consumer activity can be extracted based on the association between the connection specific information and the unique identifier. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 5, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 5.

Capiel lacks an explicit recitation of the elements and limitations of claim 5.

“Official Notice” is taken that both the concept and the advantages of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 6, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25;

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FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 6.

Capiel lacks an explicit recitation of the elements and limitations of claim 6.

"Official Notice" is taken that both the concept and the advantages of "wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 7, Capiel shows the method of claim 6. (See the rejection of claim 6 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 7.

Capiel lacks an explicit recitation of the elements and limitations of claim 7.

"Official Notice" is taken that both the concept and the advantages of "wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages

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would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 8, Capiel shows the method of claim 6. (See the rejection of claim 6 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 8.

Capiel lacks an explicit recitation of the elements and limitations of claim 8.

"Official Notice" is taken that both the concept and the advantages of "wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 9, Capiel shows the method of claim 6. (See the rejection of claim 6 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25;

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FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 9.

Capiel lacks an explicit recitation of the elements and limitations of claim 9.

“Official Notice” is taken that both the concept and the advantages of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 10, Capiel shows the method of claim 1. (See the rejection of claim 1 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 10.

Capiel lacks an explicit recitation of the elements and limitations of claim 10.

“Official Notice” is taken that both the concept and the advantages of “wherein information about the consumer’s movement within the one or more web sites is stored in a log file. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means

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*"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 11, Capiel shows the method of claim 10. (See the rejection of claim 10 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 11.

Capiel lacks an explicit recitation of the elements and limitations of claim 11.

"Official Notice" is taken that both the concept and the advantages of "wherein the log file includes the addresses of the one or more web sites. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 12, Capiel shows the method of claim 10. (See the rejection of claim 10 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 12.

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Capiel lacks an explicit recitation of the elements and limitations of claim 12.

"Official Notice" is taken that both the concept and the advantages of "wherein the log file includes information regarding number of times the consumer accesses a particular web site. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 13, Capiel shows the method of claim 10. (See the rejection of claim 10 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 13.

Capiel lacks an explicit recitation of the elements and limitations of claim 13.

"Official Notice" is taken that both the concept and the advantages of "wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

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As per claim 14, Capiel shows the method of claim 10. (See the rejection of claim 10 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 14.

Capiel lacks an explicit recitation of the elements and limitations of claim 14.

"Official Notice" is taken that both the concept and the advantages of "wherein the log file includes duration of the consumer's visit to a particular web site. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 15, Capiel shows the method of claim 10. (See the rejection of claim 10 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 15.

Capiel lacks an explicit recitation of the elements and limitations of claim 15.

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"Official Notice" is taken that both the concept and the advantages of "developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 16, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 16.

Capiel lacks an explicit recitation of the elements and limitations of claim 16.

"Official Notice" is taken that both the concept and the advantages of "wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).



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As per claim 17, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 17.

Capiel lacks an explicit recitation of the elements and limitations of claim 17.

"Official Notice" is taken that both the concept and the advantages of "wherein the master database includes a consumer information segment that contains consumer related information. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 18, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 18.

Capiel lacks an explicit recitation of the elements and limitations of claim 18.

"Official Notice" is taken that both the concept and the advantages of "wherein the master database includes a promotional material segment that includes information

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regarding promotional materials. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 19, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 19.

Capiel lacks an explicit recitation of the elements and limitations of claim 19.

“Official Notice” is taken that both the concept and the advantages of “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 20, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

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Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 20.

Capiel lacks an explicit recitation of the elements and limitations of claim 20.

"Official Notice" is taken that both the concept and the advantages of "wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality of keycodes associated with the keywords. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 21, Capiel shows the method of claim 15. (See the rejection of claim 15 supra).

Capiel (col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 21.

Capiel lacks an explicit recitation of the elements and limitations of claim 21.

"Official Notice" is taken that both the concept and the advantages of "wherein the master database includes a credit card segment that includes consumer credit card

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number, date and amount of purchase by consumer. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

Claim 22 is rejected for substantially the same reasons as claim 1.

As per claim 23, Capiel shows the method of claim 22. (See the rejection of claim 22 supra).

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col.

13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 23.

Capiel lacks an explicit recitation of the “searching the log file for the unique identifier. . . .” elements and limitations of claim 23.

“Official Notice” is taken that both the concept and the advantages of “searching the log file for the unique identifier. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

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Claim 24 is rejected for substantially the same reasons as claim 3.

Claim 25 is rejected for substantially the same reasons as claim 4.

Claim 26 is rejected for substantially the same reasons as claim 5.

Claim 27 is rejected for substantially the same reasons as claim 6.

Claim 28 is rejected for substantially the same reasons as claim 7.

Claim 29 is rejected for substantially the same reasons as claim 8.

Claim 30 is rejected for substantially the same reasons as claim 9.

Claim 31 is rejected for substantially the same reasons as claim 10.

Claim 32 is rejected for substantially the same reasons as claim 11.

Claim 33 is rejected for substantially the same reasons as claim 12.

Claim 34 is rejected for substantially the same reasons as claim 13.

Claim 35 is rejected for substantially the same reasons as claim 14.

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Claim 36 is rejected for substantially the same reasons as claim 15.

Claim 37 is rejected for substantially the same reasons as claim 16.

Claim 38 is rejected for substantially the same reasons as claim 17.

Claim 39 is rejected for substantially the same reasons as claim 18.

Claim 40 is rejected for substantially the same reasons as claim 19.

Claim 41 is rejected for substantially the same reasons as claim 20.

Claim 42 is rejected for substantially the same reasons as claim 21.

Claim 43 is rejected for substantially the same reasons as claim 21.

Claim 44 is rejected for substantially the same reasons as claim 21.

As per claim 45, Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 45.

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Capiel lacks an explicit recitation of the “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent form any consumer profile information previously stored on the client computer by any servers. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43) would have been selected in accordance with “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent form any consumer profile information previously stored on the client computer by any servers. . . .” because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 46, Capiel shows the method of claim 45. (See the rejection of claim 45 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 46.

Capiel lacks an explicit recitation of the elements and limitations of claim 46.

“Official Notice” is taken that both the concept and the advantages of “Extracting the information that defines consumer activity based on its association with the unique

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identifier to track consumer movement. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *“to identify the audience and tailor the advertising to that audience.”* (See Capiel (col. 1, ll. 22-24)).

As per claim 47, Capiel shows the method of claim 45. (See the rejection of claim 45 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 47.

Capiel lacks an explicit recitation of the “identifying at least one connection and environment specific information related to the established connection between the consumer's computer and the one or more web sites, wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . .” elements and limitations of claim 47.

“Official Notice” is taken that both the concept and the advantages of “identifying at least one connection and environment specific information related to the established connection between the consumer's computer and the one or more web sites, wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . .” were well



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known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 48, Capiel shows the method of claim 47. (See the rejection of claim 47 supra).

Capiel (col. 1, ll. 55-60; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 48.

Capiel lacks an explicit recitation of "wherein at lest one of the connection and environment specific information relates to IP address[sic] of the consumer's computer. . . ."

"Official Notice" is taken that both the concept and the advantages of "wherein at lest one of the connection and environment specific information relates to IP address[sic] of the consumer's computer. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

Claim 49 is rejected for substantially the same reasons as claim 7.

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As per claim 50, Capiel shows the method of claim 47. (See the rejection of claim 47 supra).

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 50.

Capiel lacks an explicit recitation of the elements and limitations of claim 50.

"Official Notice" is taken that both the concept and the advantages of "wherein the unique identifier relates to electronic mail address[sic] of the consumer. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 51, Capiel shows the method of claim 47. (See the rejection of claim 47 supra).

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 51.

Capiel lacks an explicit recitation of the elements and limitations of claim 51.

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"Official Notice" is taken that both the concept and the advantages of "wherein the connection or environment specific information relates to an operating system executing on the consumer's computer. . . ." were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 52, Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 52.

Capiel lacks an explicit recitation of the "IP address is recorded in a log file in association with the unique identifier. . . ." elements and limitations of claim 52.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43) would have been selected in accordance with "wherein the IP address is recorded in a log file in association with the unique identifier. . . ." because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

**NEW CLAIM REJECTIONS — 35 U.S.C. §103(a)**

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 75-82 are rejected under 35 U.S.C. §103(a) as being unpatentable over Capiel.

As per claim 75, Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows the elements and limitations of claim 75.

Capiel lacks an explicit recitation of "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . ."

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel ( col. 12, ll. 53-61; col. 13, ll. 10-25, and col. 11, ll. 37-45; col. 11, ll. 50-67; and col. 12, ll. 1-50 col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) would have been selected in accordance with "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . ." because **selection of such features** would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

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As per claims 76-77, Capiel shows the method of claim 75.

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claims 76-77.

Capiel lacks an explicit recitation of some of the elements and limitations of claims 76-77, even though Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7)

suggests same.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 76-77 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 78, Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 78.

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Capiel lacks an explicit recitation of “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) would have been selected in accordance with “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” because such selection would have provided means “to identify the audience and tailor the advertising to that audience.” (See Capiel (col. 1, ll. 22-24)).

As per claims 79-80, Capiel shows the system of claim 78.

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claims 79-80.

Capiel lacks an explicit recitation of some of the elements and limitations of claims 79-80, even though Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67;

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col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7)

suggests same.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 79-80 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 81, Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 81.

Capiel lacks an explicit recitation of "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . ."

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) would have been selected in accordance with "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL

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identifying one or more web pages. . . ." because such selection would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

As per claim 82, Capiel shows the medium of claim 81.

Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) shows elements that suggest the elements and limitations of claim 82.

Capiel lacks an explicit recitation of some of the elements and limitations of claim 82, even though Capiel (col. 1, ll. 55-60; col. 12, ll. 9-43; col. 4, ll. 52-67; col. 5, ll. 38-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25; col. 11, ll. 4-67; col. 12, ll. 1-67; col. 13, ll. 1-25; FIG. 3A; FIG. 4; FIG. 5A; and FIG. 7) suggests same.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claim 82 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means *"to identify the audience and tailor the advertising to that audience."* (See Capiel (col. 1, ll. 22-24)).

## RESPONSE TO ARGUMENTS

6. Applicant's arguments (Appeal Brief, filed 09/19/2003, paper#32) have been fully considered but they are not persuasive for the following reasons:



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Applicant's arguments are moot based on new grounds of rejection resulting from an update prior art search and review of the prior art of record during an appeal brief conference held on 1/24/2004 with Supervisory Primary Examiner Eric Stamber, Appeal Conference Specialist, Primary Examiner James Myhre and Primary Examiner John Young.

### CONCLUSION

7. Any response to this action should be mailed to:

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist  
Crystal Park V  
2451 Crystal Drive  
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at

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(703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young

Primary Patent Examiner

January 25, 2004

**(11) *Response to Arguments***

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, pp. 4-5) and (Appeal Brief, paper#32, filed 09/19/2003, p. 5) allege that "the prosecution of this matter has been unduly delayed, as the Patent Office has lacked enthusiasm to set an interview environment that can help identify patentable limitations

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for putting the case in condition for allowance, despite numerous requests by the Applicant. . . .”

In response to this allegation, please note that the file wrapper records Interview Summary paper#17, filed 7/9/02; Interview Summary paper#21, filed 11/27/02; and Interview Summary paper#28, filed 6/24/03. . . . Furthermore, on September 09, 2004, Applicant’s representative conducted an informal phone interview with USPTO 3600 Group Director John Love concerning the instant application. On or about September 27, 2004, Applicant’s representative communicated with the Examiner concerning proposed claim amendments in an effort to determine possible patentable subject matter. On or about September 29, 2004, Applicant’s representative communicated with the Examiner concerning proposed claim amendments in an effort to determine possible patentable subject matter. On or about October 12, 2004, Applicant’s representative communicated with the Examiner concerning proposed claim amendments in an effort to determine possible patentable subject matter. For several days during the week of October 12, 2004, the Examiner conducted informal phone interviews with Applicant’s representative concerning proposed claim amendments in an effort to determine possible patentable subject matter.

Therefore, the record reflects that the Patent Office has NOT lacked enthusiasm to set an interview environment that could possibly help identify patentable subject matter concerning the instant application.

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Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 5) and (Appeal Brief, paper#32, filed 09/19/2003, p. 5) broadly allege that in "Papers #27 and #33, each rejection includes numerous admissions that Capiel lacks explicit recitation of all the elements in the claims. . . . [and] The Examiner alleges that such elements are 'well known in the art.' . . . [and] that the Examiner . . . has failed to provide any support whatsoever for said allegations, even where expressly requested by the Applicant."

In response to these allegations, Applicant failed to either timely provide arguments and timely demand references concerning Official Notice evidence. Furthermore, the prior Office actions may have stated that the applied art lacks explicit recitation of some claim elements, but the prior Office action never admitted that the applied prior art failed to show or suggest the claim elements and limitations at issue.

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 5) and (Appeal Brief, paper#32, filed 09/19/2003, p. 5) rely on a brief interview summary (paper#28) which narrowly focuses on the claim 1 element of "'embedding a unique identifier within a website address' which is included in an electronic mail message sent to the email recipient. . . ."; and the interview summary also focuses on an "Image Tag" element in the applied art as grounds for stating that the interview

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summary (paper#28) succinctly summarizes the issues before the board and the distinction between the invention and the cited prior art.

In response to these allegations, Applicant is responsible for all that the applied reference discloses. For example, in the prior rejection, disclosures of Capiel (col. 6, ll. 1-67; and col. 7, ll. 1-67) were cited.

Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . .

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message . . . email=gcapiel@digital-impact.com, . . . represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

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Where email=gcapiel@digital-impact.com is the unique identifier embedded within the web site address: http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . . . and the unique identifier uniquely identifying an email recipient.

Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Therefore, Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line discloses:

*"http://tower.m0.net/m/u/t.asp?email=gcapiel%40digital-impact.tngi.com. . . ."* which includes email=gcapiel@digital-impact.com which is the unique identifier embedded within the web site address: http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . . . and the unique identifier uniquely identifying an email recipient.

The Examiner interprets the above disclosure (i.e., Capiel col. 6, ll. 17-18; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67.; and col. 8, ll. 1-40) as showing "embedding a unique identifier within a web site address, the unique identifier uniquely identifying an email recipient . . . [and] providing the unique identifier to the server computer by way of sending the web site address to the server computer in a

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request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request, to request, to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . .”

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 5) alleges that “after receiving Paper #33 [filed 1/27/04] Applicant contacted the Supervising Examiner telephonically and in more than 2 occasions left voice mail messages requesting an opportunity for an Examiner interview to determine if reinstating the appeal can be avoided. No response has been received in return to said requests.”

In response to this allegation, On September 09, 2004, Applicant's representative conducted an informal phone interview with USPTO 3600 Group Director John Love concerning the instant application. On or about September 27, 2004, Applicant's representative communicated with the Examiner concerning proposed claim amendments in an effort to determine possible patentable subject matter. On or about September 29, 2004, Applicant's representative communicated with the Examiner concerning proposed claim amendments in an effort to determine possible patentable subject matter. On or about October 12, 2004, Applicant's representative communicated with the Examiner concerning proposed claim amendments in an effort

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to determine possible patentable subject matter. For several days during the week of October 12, 2004, the Examiner conducted informal phone interviews with Applicant's representative concerning proposed claim amendments in an effort to determine possible patentable subject matter.

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 6) and (Appeal Brief, paper#32, filed 09/19/2003, pp. 6 & 7) alleges that "in every single page of the 30-page Office Action (and with respect to almost every claim), the Examiner has repeatedly relied on the 'common knowledge' . . . as the basis of rejection, without once offering any evidence to support this basis."

In response to this allegation, Applicant failed to either timely provide arguments and timely demand references concerning Official Notice evidence. Furthermore, the prior Office actions may have stated that the applied art lacks explicit recitation of some claim elements, but the prior Office action never admitted that the applied prior art failed to show or suggest the claim elements and limitations at issue.

Furthermore, the following arguments are presented in support of common knowledge/Official Notice evidence relied upon in the following claims at issue:

As per claim 3, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.



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Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with information that defines consumer activity. . . .”; furthermore, as far as the Official Notice evidence of the prior Office action is concerned,

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “identifying an IP address of the client computer, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity. . . .”; therefore, a review of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) clarifies why the Examiner relied upon Official Notice evidence in support of the claimed element of “identifying an IP address of the client computer, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity. . . .”; furthermore, even though

Capiel lacks explicit recitation of “associating the unique identifier with the IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) implicitly shows “associating the unique identifier with the IP address such that the

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information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) as implicitly showing “associating the unique identifier with the IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 4, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with information that defines consumer activity. . . .”; furthermore,

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Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

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Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail  
address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set ...*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

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*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address*

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*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

Capiel (col. 12, ll. 10-13) discloses:

*"Log when the catalog was first opened and how many times since"*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

furthermore, even though

The Examiner interprets these disclosures as implicitly showing: "identifying connection specific information related to the established connection between the client computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with off[sic] the connection specific information. . . ." this interpretation and the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element of "identifying connection specific information related to the established connection between the client computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with off[sic] the connection specific information. . . ."; furthermore, even though

Capiel lacks explicit recitation of "associating the unique identifier with off[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between off[sic] the connection specific information and the unique identifier. . . ."; it would have been obvious to a person of



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ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 12, ll. 53-61; and col. 13, ll. 5-25, i.e., TABLE 1) implicitly shows “associating the unique identifier with of[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between of[sic] the connection specific information and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 12, ll. 53-61; and col. 13, ll. 5-25, i.e., TABLE 1) as implicitly showing “associating the unique identifier with of[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between of[sic] the connection specific information and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 5, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

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Capiel at least at (col. 7, ll. 64-67; and col. 7, ll. 30-60) implicitly shows “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; furthermore, Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=,’ is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel lacks a verbatim recital of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”

The Examiner interprets the above disclosures as implicitly showing: “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; this interpretation and the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; furthermore, even though Capiel lacks a verbatim recital of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .” it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 7, ll. 30-60) implicitly shows “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 7, ll. 30-60) as implicitly showing “wherein the unique identifier

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identifies a consumer's electronic mail address. . . ." because modification and interpretation of the cited disclosure of Capiel would have provided means "*to identify the audience and tailor the advertising to that audience. . . .*" (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to "develop a customer base . . . that respond by buying . . . advertised products. . . ." (see Capiel (col. 1, ll. 50-53)).

As per claim 6, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel (col. 3, ll. 21-43) discloses: "*the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . .*"

Capiel (col. 3, ll. 42-50) discloses: "*The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This*

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*is later shown in FIGS. 3A and 3B).*” NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page. . . .”*

Capiel at least at (FIG. 3B) implicitly shows “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”

however, even though

Capiel lacks a verbatim recital of “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”* (see Capiel (col. 1, ll. 22-34)), based on the motivation

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to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 7, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page. . . .”*

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Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”; however, even though

Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 8, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page. . . ."*

Capiel at least at (FIG. 3B) implicitly shows "wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .";

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the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .”; however, even though

Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).



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As per claim 9, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”;

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

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Capiel (col. 4, ll. 52-64) discloses: “*the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page. . .*”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”; however, even though,

Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a

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customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 10, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “information about the consumer’s movement within the one or more web sites. . . .”

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*catalog\_url*. . . .” The Examiner interprets this disclosure as showing a “one or more web sites. . . .” (i.e., web sites for product catalogs).

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

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*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

The Examiner interprets these disclosures as implicitly showing: "wherein information about the consumer's movement within the one or more web sites is stored in a log

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file. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein information about the consumer’s movement within the one or more web sites is stored in a log file. . . .”; however, even though,

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Capiel lacks a verbatim recitation that “information about the consumer’s movement within the one or more web sites is stored in a log file. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “wherein information about the consumer’s movement within the one or more web sites is stored in a log file. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 11, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*catalog\_url . . .*” The Examiner interprets this disclosure as showing a “the log file includes the addresses of the one or more web sites. . . .” (i.e., web sites for product catalogs).

The above disclosure clarifies why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the log file includes the addresses of the one or more web sites. . . .”; however, even though,

Capiel lacks a verbatim recital of “wherein the log file includes the addresses of the one or more web sites. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the log file includes the addresses of the one or more web sites. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the log file includes the addresses of the one or more web sites. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 12, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 12, ll. 10-13) discloses: .....

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where  
name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count  
from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

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*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*...Request.QueryString("catid")....*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and member\_id and catalog\_id. . . ." etc.*

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ."

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"catalog\_url . . . [and] opened\_count. . . ."* The Examiner interprets this disclosure as showing a "wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ." (i.e., a web site for product catalogs); the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed



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element and limitations of “the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; however, even though, Capiel lacks a verbatim recitation of “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 13, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

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Capiel at least at (FIG. 3B) discloses an online: *“shopping basket. . . .”*

Capiel at least at (FIG. 3B) discloses: *“Shop AOL. . . .”*

Capiel at least at (col. 1, ll. 43-65) discloses: *“One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; however, even though,

Capiel lacks a verbatim recital of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) implicitly shows “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) as implicitly showing “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”*

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(see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 14, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *“the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or greater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program on the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .”*

Capiel at least at (col. 11, ll. 1-35) *“oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes duration of the consumer’s visit to a particular web site. . . .”; however, even though,

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Capiel lacks a verbatim recital of “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) implicitly shows “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) as implicitly showing “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 15, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 1, ll. 20-35) discloses: “*Targeting advertising to customer profiles has been a method to improve E-mail sales. . . .*”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

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Capiel (FIG. 7) discloses: “*Connect to DB. . .*”

Capiel (col. 10, ll. 25-58) shows a “master database. . .”

Capiel at least at (col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows a “log file. . .”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; however, even though,

Capiel lacks a verbatim recital of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at

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(col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 16, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (6,449,634; and col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

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Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

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*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address*

*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server*

*program' is that given in the visual basic script above, the 'E-mail address' is that of E-*

*mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*



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Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

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Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“getClientIdCmd.CommandText=”select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery= “select opened,opened\_count from catalogs where catalog\_id= ”+*

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*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

The Examiner interprets these disclosures as implicitly showing: "wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the master database includes a plurality of segments including an email look up segment

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that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a

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customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 17, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (6,449,634 col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 43-67) discloses: “*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .*”

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”

Capiel (col. 12, ll. 10-13) discloses:

“*getClientIdCmd.CommandText=*”select em\_client-id from E-mail\_clients where name=?”

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*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer*

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*located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

*The Examiner interprets these disclosure as showing "the master database includes a consumer information segment that contains consumer related information. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "the master database includes a consumer information segment that contains consumer related information. . . ."; however, even though,*

Capiel lacks explicit recitation of *"the master database includes a consumer information segment that contains consumer related information. . . ."*; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 24-26; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 51-63; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows *"the master database includes a consumer information segment that contains consumer related information. . . ."*; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 51-63; and col. 13,

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ll. 10-25, i.e., TABLE 1) as implicitly showing “*the master database includes a consumer information segment that contains consumer related information. . . .*” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 18, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 43-67) discloses: “*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .*”



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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

The Examiner interprets these disclosures as showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; furthermore,

Capiel (col. 9, ll. 1-40; and FIG. 3B) inherently shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because; for example, FIG. 3B discloses trivia games promotions, i.e., *“Trivia Games: Win \$. . . .”*; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; it would have

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been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 19, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

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Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) inherently shows “the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” material

The Examiner interprets these above disclosures as showing “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that

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that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 20, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

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Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

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Capiel (FIG. 3B) discloses: “*Keyworded: Tower. . . .*”

Capiel (FIG. 3B) shows “the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”

The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the master database includes a URL segment that includes a plurality of

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URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 21, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (FIG. 3B) inherently shows “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”

The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”



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”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 22 is rejected for substantially the same reasons as independent claim 1, except that elements found at lines 5-6 and 17 of claim 1 are missing from claim 22, i.e., lines 5 & 6: “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites . . . “ and line 17: identifying the email recipient based on the retrieved unique identifier. . . .”; therefore, claim 22 is broader than claim 1.

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As per claim 23, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

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*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count*

*from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . . .”* etc.

The Examiner interprets these disclosures as implicitly showing: “the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . .”

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . .” ; furthermore,

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back*

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*to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets all the above disclosures as implicitly showing: "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on

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its association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Dependent claim 24 is rejected for the same reasons as dependent claim 3, even though explicit detail about the “establishing the connection between the consumer’s computer and the one or more web sites. . . .” limitation is not recited verbatim in claim 3 as it is recited in claim 24, the context of both dependent claims are the same and the connection limitation of claim 24 is inherently a part of claim 3.

Dependent claim 25 is rejected for the same reasons as dependent claim 4, even though explicit detail about the “IP address. . . .” connection limitation is not recited verbatim in claim 4 as it is recited in claim 25, the context of both dependent claims are

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the same and the "IP address" connection limitation of claim 25 is inherently a part of claim 4.

Dependent claim 26 is rejected for substantially the same reasons as dependent claim 5.

Dependent claim 27 is rejected for substantially the same reasons as dependent claim 6.

Dependent claim 28 is rejected for substantially the same reasons as dependent claim 7.

Dependent claim 29 is rejected for substantially the same reasons as dependent claim 8.

Dependent claim 30 is rejected for substantially the same reasons as dependent claim 9.

Dependent claim 31 is rejected for substantially the same reasons as dependent claim 10.



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Dependent claim 32 is rejected for substantially the same reasons as dependent claim 11.

Dependent claim 33 is rejected for substantially the same reasons as dependent claim 12.

Dependent claim 34 is rejected for substantially the same reasons as dependent claim 13.

Dependent claim 35 is rejected for substantially the same reasons as dependent claim 14.

Dependent claim 36 is rejected for substantially the same reasons as dependent claim 15.

Dependent claim 37 is rejected for substantially the same reasons as dependent claim 16.

Dependent claim 38 is rejected for substantially the same reasons as dependent claim 17.

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Dependent claim 39 is rejected for substantially the same reasons as dependent claim 18.

Dependent claim 40 is rejected for substantially the same reasons as dependent claim 19.

Dependent claim 41 is rejected for substantially the same reasons as dependent claim 20.

Dependent claim 42 is rejected for substantially the same reasons as dependent claim 21.

As per claim 43, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code' . . . " and "member\_id and catalog\_id. . . " etc.*

Capiel (FIG. 3B) discloses: *"Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . "*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

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Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows “the unique identifier is a consumer’s credit card information. . . .” at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing “wherein the unique identifier is a consumer’s credit card information. . . .”

Capiel lacks explicit recitation of “wherein the unique identifier is a consumer’s credit card information. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier is a consumer’s credit card information. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 44, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address*

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*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapie1@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; and col. 7, ll. 30-60) inherently shows "the unique identifier is a consumer's credit card information. . . ." because the ID number could be any given unique number chosen.

The Examiner interprets these above disclosures as showing "the unique identifier is a consumer's credit card information. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "searching the log file for the unique identifier; and extracting the

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information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier is a consumer’s credit card information. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 45, Applicant is responsible for all that the applied reference discloses. For example, Capiel (6,449,634); (col. 1, ll. 24-26) discloses: *"Vendor lists of prior customers provide a basis to identify the target audience."*

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., "A method for electronically identifying a consumer without requiring consumer registration. . . ."

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*



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Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

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*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail  
address passed:"+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

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```
'Log when the catalog was first opened and how many time since  
If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened_count  
from catalogs where catalog_id="+  
Request.QueryString("catid")  
Set oRs=oCom.Execute(SQLQuery)  
If Not oRs.EOF Then  
If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened_count=1 where catalog_id="+  
Request.QueryString("catid"). . . .
```

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of "includes a web site address, sent to the consumer in an electronic mail message with a unique identifier. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-*

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*mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

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The Examiner interprets the above disclosure (i.e., Capiel col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67 ; and col. 8, ll. 1-40) as showing “a unique identifier embedded in a web site address for uniquely identifying the particular consumer; parsing the web site address to find the unique identifier. . . .”

Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

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Set . . .

```
E-mailId=oRs.Fields.Item("em_client_id")oRs.Close
'Now update the E-mail address with the E-mail client type information
Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")
updateE-mailMetaCmd.ActiveConnection=oConn
updateE-mailMetaCmd.CommandType=1 . . . .

'Log when the catalog was first opened and ho many time since
If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened_count
from catalogs where catalog_id="+
    Request.QueryString("catid")
Set oRs=oCom.Execute(SQLQuery)
If Not oRs.EOF Then
    If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set
opened=getdate(),
Opened_count=1 where catalog_id="+
    Request.QueryString("catid"). . . .
```

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: "When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.

The Examiner interprets these disclosures as implicitly showing: "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers."

Capiel lacks explicit recitation of "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of

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Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per Claim 46, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45.

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

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*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*



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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . . .”* etc.

Capiel (col. 3, ll. 5-22) discloses: *“Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . .”*; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “extracting the information that defines consumer activity

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based on said association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 47, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with at least one of the connection and environment specific information such that information that defines consumer activity. . . .”; furthermore,

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

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Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows "identifying at least one connection and environment specific information related to the established connection between the consumer's computer and the one or more web sites

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML*

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*information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

The Examiner interprets these above disclosures as showing: "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 12, ll. 53-61; col. 13, ll. 5-

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10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) implicitly shows “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 13, ll. 5-10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) as implicitly showing “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)); “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier.”

As per claim 48, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (FIG. 7) discloses: “Get Client’s Type of Browser (i.e., client’s E-mail software) . . . ” [and] “Associate in the DB the Type of Browser with Clients Email address”.

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Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

```
Response.ContentType="image/JPG"
If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail
address passed:") +
Request.QueryString("E-mail"))
    Exit Sub
End If
oConn.open Session ("DIDB_ConnectionString")
browserType=Request.ServerVariables("HTTP_User_Agent")
If browserType="" Then
BrowserType="HTML"
End If
Set getClientIdCmd=Server.CreateObject("ADODB.Command")
getClientIdCmd.ActiveConnection=oConn
getClientIdCmd.CommandType=1
getClientIdCmd.CommandText="select em_client-id from E-mail_clients where
name=?"
Set . . .
```

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-*

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*mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

The Examiner interprets the above disclosures as showing: . "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; therefore,

Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; however, even though,

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Capiel lacks explicit recitation of “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 49, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.



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Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

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Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows "the unique identifier relates to credit card information of the consumer. . . ." at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing "wherein the unique identifier relates to credit card information of the consumer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the unique identifier relates to credit card information of the consumer. . . ."; however, even though,

Capiel lacks explicit recitation of "wherein the unique identifier relates to credit card information of the consumer. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ;

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and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to credit card information of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to credit card information of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 50, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the unique identifier relates to [sic] electronic mail of the consumer. . . ."

The Examiner interprets these above disclosures as showing "wherein the unique identifier relates to [sic] electronic mail of the consumer. . . ."; the above disclosures

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clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 51, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

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Capiel (col. 2, ll. 8-13) discloses: *“The processing may further determine if hyper text mark up language (HTML) statements or dynamic HTML (DHTML) statements or Java applets can be executed by the E-mail client.”*

Capiel (col. 4, ll. 23-30) discloses: *“The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML . . . . The sensor database may be a relational SQL database implemented for example on a personal computer or on a UNIX server. . . .”*

The Examiner interprets these above disclosures as showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) implicitly shows “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the

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disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) as implicitly showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to *identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 52, Applicant is responsible for all that the applied reference discloses. For example,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., an “established connection independent from any consumer profile information previously stored on the client computer. . . .”

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.



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Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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Set . . .

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.

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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites, in response to the email recipient selecting a reference to the web site address included in the electronic mail message. . . .”

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 6, ll. 17-18) discloses: *http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . .*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor*

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*message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: “*When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’ software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .*”

The Examiner interprets the above disclosure (i.e., Capiel col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40) as showing “A unique identifier embedded in a URL provided to a consumer by way [sic] electronic mail, such that when the consumer selects the URL a connection is established between a consumer computer having a first IP address and a web server providing access to one or more web sites, wherein the web server receives the URL via said established connection independent from any consumer profile information previously stored on the client computer, wherein the web server parses the URL for the unique identifier. . . .”

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Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

Capiel (col. 13, ll. 5-10) discloses: *"the date and time the E-mail client first opens the E-mail message is stored in 'opened'; and the count of number of times the E-mail message is opened is stored in 'open\_count'."*

Capiel (col. 12, ll. 10-13) discloses:

*"Log when the catalog was first opened and how many times since"*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these above disclosures as implicitly showing: "wherein the IP address is recorded in a log file in association with the unique identifier. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that "It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with "the IP address is recorded in a log file in association with the unique identifier. . . ." in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer's computer. . . ."; furthermore, even though,

Capiel lacks explicit recitation of "the IP address is recorded in a log file in association with the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the IP address is recorded in a log file in association with the unique identifier. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67;

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col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the IP address is recorded in a log file in association with the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per independent claim 75, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A computer-implemented method for electronically tracking web pages visited by an email recipient without requiring advanced registration. . . .”



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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients, . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

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Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

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*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

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*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; col. 2, ll. 1-20; col. 3, ll. 5-67; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing "establishing a connection between a server computer and a client computer used by the email recipient to receive the email, in response to the email recipient selecting the link, wherein the server computer provides access to the one or more web pages identified by the URL. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

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Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . .

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"<http://tower.m0.net/m/u/t.asp?email=gcapiel%40digital-impact.tngi.com>. . . ."* which includes [email=gcapiel@digital-impact.com](mailto:gcapiel@digital-impact.com) which is the unique identifier embedded within the web site address:

<http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . . and the unique identifier uniquely identifying an email recipient.

Capiel (col. 7, ll. 64-67; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is*

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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40)) as showing "embedding a unique identifier within a uniform resource locator (URL), the unique identifier uniquely identifying an email recipient, the URL identifying one or more web pages; including the URL in [sic] form of a link in an email sent to the email recipient, wherein selecting the link provides the email recipient with access to the one or more web pages . . . providing the unique identifier to the server computer by way of a request submitted by the client computer to access said one or more web pages, independent from any profile information previously stored on the client computer, wherein the request includes the URL in which the unique identifier is embedded; parsing the URL in the request to retrieve the unique identifier embedded n the URL; identifying the email recipient based on the retrieved unique identifier. . . ."

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Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

Capiel (col. 13, ll. 5-10) discloses: *"the date and time the E-mail client first opens the E-mail message is stored in 'opened'; and the count of number of times the E-mail message is opened is stored in 'open\_count'."*

Capiel (col. 12, ll. 10-13) discloses:

*"Log when the catalog was first opened and how many times since"*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count*

*from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server*



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*program' with parameters 'E-mail address' and 'unique mail code' . . . ."* and  
*"member\_id and catalog\_id . . . ." etc.*

The Examiner interprets these above disclosures as implicitly showing: "automatically storing the unique identifier in association with the IP address of the client computer in a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .";

the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that "It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . ." in support of the claimed element and limitations of "embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . ."; furthermore, even though,

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Capiel lacks explicit recitation of “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient

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in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”* (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 76, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 75.

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

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*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 7) discloses: *“Get Client’s Type of Browser (i.e., client’s E-mail software)”*

Capiel (FIG. 7) discloses: *“Associate in the DB the Type of Browser with Clients Email address. . . .”*

The Examiner interprets these disclosures as implicitly showing: “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1)

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implicitly shows “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *“The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.”*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

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Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’ software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

The Examiner interprets the above disclosures as implicitly showing: “extracting the access information for a particular email recipient. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed elements and limitation of “extracting the access information for a particular email recipient. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “extracting the access information for a particular email recipient. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “extracting the access information for a particular email recipient. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at

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least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “extracting the access information for a particular email recipient. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 77, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 75.

Capiel (col. 3, ll. 21-43) discloses: “*the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .*”

Capiel (col. 3, ll. 42-50) discloses : “*The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the*



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*HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

The Examiner interprets these disclosures as implicitly showing: "an address of a web page visited by the email recipient. . . ."

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *"the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or grater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . ."*

Capiel at least at (col. 11, ll. 1-35) *"oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')"*

The Examiner interprets these disclosures as implicitly showing: "wherein the log file includes duration of the consumer's visit to a particular web site."

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Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

Capiel at least at (FIG. 3B) discloses an online: “*shopping basket. . . .*”

Capiel at least at (FIG. 3B) discloses: “*Shop AOL. . . .*”

Capiel at least at (col. 1, ll. 43-65) discloses: “*One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .*”

The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure

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of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during off[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during off[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 78 is rejected for the same reasons as independent claim 75.

Dependent claim 79 is rejected for the same reasons as dependent claim 76.

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Dependent claim 80 is rejected for the same reasons as dependent claim 77.

Independent claim 81 is rejected for the same reasons as independent claim 75.

As per claim 82, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 81.

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

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Set . . .

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer*

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*located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

The Examiner interprets these disclosures as implicitly showing: "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."; furthermore,

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back*

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*to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosures as implicitly showing: "extracting the access information for a particular email recipient. . . ."

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the access information for a particular email recipient. . . ."; furthermore, even though,

Capiel lacks explicit recitation of "extracting the access information for a particular email recipient. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows "extracting the access information for a particular email recipient. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing "extracting the access information for a particular email recipient. . . ." because modification and interpretation of the cited



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disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Capiel (col. 3, ll. 21-43) discloses: “the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”

Capiel (col. 3, ll. 42-50) discloses: “The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).” NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: “the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”

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The Examiner interprets these disclosures as implicitly showing: “an address of a web page visited by the email recipient. . . .”

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *“the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or greater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program on the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .”*

Capiel at least at (col. 11, ll. 1-35) *“oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')”*

The Examiner interprets these disclosures as implicitly showing: “duration of the [consumer’s] visit [to a particular web site].”

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

Capiel at least at (FIG. 3B) discloses an online: *“shopping basket. . . .”*

Capiel at least at (FIG. 3B) discloses: *“Shop AOL. . . .”*

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Capiel at least at (col. 1, ll. 43-65) discloses: *“One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .”*

The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during

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of[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Appellant’s arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 7) and (Appeal Brief, paper#32, filed 09/19/2003, pp. 7-9) allege that “The cited reference is non-analogous prior art. . . . [furthermore, in] the present invention. . . . email is used as a tool to forward a link with an embedded identifier to an email recipient. . . . Therefore, it is respectfully submitted that Capiel is not within the field of endeavor of the present invention.”

In response to these allegations, please note the following:

Capiel (col. 4, ll. 58-65) discloses: “*FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC.*”

Furthermore, Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses:

“*http://tower.m0.net/m/w/t.asp?email=gcapiel%40digital-impact.tngi.com. . . .*” which

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includes [email=gcapiel@digital-impact.com](mailto:gcapiel@digital-impact.com) which is the unique identifier embedded within the web site address: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . . and the unique identifier uniquely identifying an email recipient.

Therefore, the applied Capiel reference is reasonably pertinent to the particular problem with which the inventor is involved, as well as within the same field of endeavor and is analogous prior art, because Capiel (col. 4, ll. 58-65; and FIG. 3A) shows where “email is used as a tool to forward a link with an embedded identifier to an email recipient. . . .”

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 9) in reference to pp. 3, 4, 5, 6 & 29 (i.e., the obviousness rejections of claim 1 and claim 75 respectively) of the prior Office action, alleges that “The present invention, as claimed, is patentably distinct from the cited reference and therefore is not obvious under Section 103(a).”

In response to these allegations, please note the following:

As per claim 1, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., "A method for electronically identifying a consumer without requiring consumer registration. . . ."

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail*

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*sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11; ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

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*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*



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*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of "including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites, in response to the email recipient selecting a reference to the web site address included in the electronic mail message. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server*

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*program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com...>

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"<http://tower.m0.net/m/w/t.asp?email=gcapiel%40digital-impact.tngi.com...>" which includes email=gcapiel@digital-impact.com which is the unique identifier embedded within the web site address:*

*<http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com...> and the unique identifier uniquely identifying an email recipient.*

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Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’ software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67 ; and col. 8, ll. 1-40)) as showing “embedding a unique identifier within a web site address, the unique identifier uniquely identifying an email recipient . . . [and] providing the unique identifier to the server computer by way of sending the web site address to the server computer in a request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request, to request, to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . .”

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Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

Capiel (col. 13, ll. 5-10) discloses: *"the date and time the E-mail client first opens the E-mail message is stored in 'opened'; and the count of number of times the E-mail message is opened is stored in 'open\_count'."*

Capiel (col. 12, ll. 10-13) discloses:

*"Log when the catalog was first opened and how many times since"*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count*

*from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code' . . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites."

Capiel lacks explicit recitation of "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity

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within said one or more web sites. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Also, in response to these allegations of non-obviousness, please note the following:

As per claim 75, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A computer-implemented method for electronically tracking web pages visited by an email recipient without requiring advanced registration. . . .”

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*



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Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

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*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

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*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; col. 2, ll. 1-20; col. 3, ll. 5-67; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing "establishing a connection between a server computer and a client computer used by the email recipient to receive the email, in response to the email recipient selecting the link, wherein the server computer provides access to the one or more web pages identified by the URL. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

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Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . .

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"<http://tower.m0.net/m/w/t.asp?email=gcapiel%40digital-impact.tngi.com>. . . ."* which includes [email=gcapiel@digital-impact.com](mailto:gcapiel@digital-impact.com) which is the unique identifier embedded within the web site address: <http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . . and the unique identifier uniquely identifying an email recipient.

Capiel (col. 7, ll. 64-67; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is*

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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40)) as showing "embedding a unique identifier within a uniform resource locator (URL), the unique identifier uniquely identifying an email recipient, the URL identifying one or more web pages; including the URL in [sic] form of a link in an email sent to the email recipient, wherein selecting the link provides the email recipient with access to the one or more web pages . . . providing the unique identifier to the server computer by way of a request submitted by the client computer to access said one or more web pages, independent from any profile information previously stored on the client computer, wherein the request includes the URL in which the unique identifier is embedded; parsing the URL in the request to retrieve the unique identifier embedded n the URL; identifying the email recipient based on the retrieved unique identifier. . . ."

Capiel (col. 1, ll. 43-67) discloses: "*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access*

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*his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

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*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these above disclosures as implicitly showing: "automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the

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one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that “It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” in support of the claimed element and limitations of “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “automatically storing the unique identifier in association with the IP address of the client computer in a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; it would have been obvious to a person of



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ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify

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Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

The above Examiner discussions concerning the obviousness rejection of claim 1 are in response to Applicant’s allegation that the three basic criteria of obviousness are met, i.e., (1) suggestion or motivation in the applied reference, as well as knowledge generally available to one of ordinary skill in the art to modify the reference; (2) Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40)) provides the reasonable expectation of success concerning what the Applicant describes as “the issues before the board and the distinction between the invention and the cited prior art, i.e., “’embedding a unique identifier within a website address’ which is included in an electronic mail message sent to the email recipient. . . .” (see Appellant’s arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 5)); and (3) Finally, the prior art reference as modified does teach or suggest all the claim limitations. Furthermore,

It is well settled that the test for a *prima facie* case obviousness is not whether the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the teachings of the references would have suggested in the broadest interpretation to those of ordinary skill in the art. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion,

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or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It is also well settled in the law that

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

( a ) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

( B ) the difference or differences in the claim over the applied reference(s),

( C ) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

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( D ) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicant's disclosure. . . . (See MPEP 706.02(j)).

In this case, the Prior Office Action relies upon the combined teachings, suggestions and motivations found in the applied reference as well as the knowledge generally available to one of ordinary skill in the art and does not include knowledge gleaned from the Applicant's disclosure. Furthermore, the prior Office action indicates the requisite "reasonable expectation of success" is established by virtue of modifying the teachings of the patent to Capiel without rendering the references unsuitable for its intended purpose. Furthermore, the modification of the teachings in the prior art reference suggests all the claim limitations. Finally, the teachings and suggestions for the

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basis of the modifications and the reasonable expectation of success are both found in the prior art and not based on Applicant's disclosure.

The above Examiner discussions concerning the obviousness rejection of claim 75 are in response to Applicant's invitation "to explain how any of the cited portions of Capiel above teach or suggest any of the . . . elements that particularly recite the relationship between the URL and IP Address stored in the log to track the web pages accessed by the user. . . ."

Appellant's arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, p. 13) and (Appeal Brief, paper#32, filed 09/19/2003, p. 10) allege that "According to the claimed invention, connection between an email client and a target web page is seamlessly established, at the same time as the unique identifier is transmitted to the web hosting server and recorded in the web log without the need for implementing an intermediary 'middlemen' email sensor server.

In response to these allegations, Applicant is arguing elements not in the claims. Furthermore, the claims of the instant invention are broad enough so as not to preclude an email sensor server as disclosed in Capiel. And in response to Applicant's specific argument that "connection between an email client and a target web page is seamlessly established, at the same time as the unique identifier is transmitted to the web hosting

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server and recorded in the web log without the need for implementing an intermediary ‘middlemen’ email sensor server. . . .”, it is noted that the features upon which Applicant relies (i.e., that “connection between an email client and a target web page is seamlessly established, at the same time as the unique identifier is transmitted to the web hosting server and recorded in the web log without the need for implementing an intermediary ‘middlemen’ email sensor server. . . .”) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant’s arguments (Supplemental Appeal Brief, paper#35, filed 03/23/2004, pp. 13, 14 & 15) and (Appeal Brief, paper#32, filed 09/19/2003, p. 13) allege that “impermissible hindsight reconstruction” was used in the obviousness rejections of the instant invention.

In response to this allegation, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant’s disclosure, such a reconstruction is proper. (See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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Appellant's arguments (Appeal Brief, paper#32, filed 09/19/2003, pp. 9-16) allege that "The present invention, as claimed . . . in claims 1-52 & 75-82, is patentably distinct from the cited reference and therefore is not obvious under Section 103(a)."

In response to this allegation, please see the following discussion of claims 1-52 & 75-82:

In response to these allegations, please note the following:

As per claim 1, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: "*Vendor lists of prior customers provide a basis to identify the target audience.*"

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: "*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*"

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., "A method for electronically identifying a consumer without requiring consumer registration. . . ."

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.



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Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.

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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites, in response to the email recipient selecting a reference to the web site address included in the electronic mail message. . . .”

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 6, ll. 17-18) discloses: *http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . . .*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor*

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*message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"http://tower.m0.net/m/u/t.asp?email=gcapiel%40digital-impact.tngi.com. . ."* which includes email=gcapiel@digital-impact.com which is the unique identifier embedded within the web site address: http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . . and the unique identifier uniquely identifying an email recipient.

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

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The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67 ; and col. 8, ll. 1-40)) as showing “embedding a unique identifier within a web site address, the unique identifier uniquely identifying an email recipient . . . [and] providing the unique identifier to the server computer by way of sending the web site address to the server computer in a request submitted by the client computer to access said one or more web sites, independent from any consumer profile information previously stored on the client computer; parsing the web site address in the request, to request, to retrieve the unique identifier embedded in the web site address; identifying the email recipient based on the retrieved unique identifier. . . .”

Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

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*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate( ),  
Opened\_count=1 where catalog\_id="+  
Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites."

Capiel lacks explicit recitation of "tracking the email recipient's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10;

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col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “tracking the email recipient’s movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “tracking the email recipient’s movement within the one or more web sites by associating the unique identifier with information that defines consumer activity within said one or more web sites. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 2, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “tracking the email recipient’s movement within the one or more web sites. . . .”

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”



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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

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```
If Request.QueryString("catid") < > " " Then SQLQuery = "select opened,opened_count  
from catalogs where catalog_id="+  
    Request.QueryString("catid")  
Set oRs=oCom.Execute(SQLQuery)  
If Not oRs.EOF Then  
    If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened_count=1 where catalog_id="+  
    Request.QueryString("catid"). . . .
```

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "storing in at least one log file the unique identifier in association with the information that defines consumer activity. . . ."

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Capiel lacks explicit recitation of “extracting the information that defines consumer activity based on said association to track consumer movement. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “extracting the information that defines consumer activity based on said association to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 3, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1)

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shows “associating the unique identifier with information that defines consumer activity. . . .”; furthermore, as far as the Official Notice evidence of the prior Office action is concerned,

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “identifying an IP address of the client computer, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity. . . .”; therefore, a review of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) clarifies why the Examiner relied upon Official Notice evidence in support of the claimed element of “identifying an IP address of the client computer, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity. . . .”; furthermore, even though Capiel lacks explicit recitation of “associating the unique identifier with the IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) implicitly shows “associating the unique identifier with the IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .”; and it would have been obvious to

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modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) as implicitly showing “associating the unique identifier with the IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 4, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with information that defines consumer activity. . . .”; furthermore,

Capiel (col. 3, ll. 5-22) discloses: “*Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves*

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*as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . .”*

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

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*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail  
address passed:" +*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set ...*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail-client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

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*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address*

*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server*

*program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*



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Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’s software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

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*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ." etc.*

furthermore, even though

The Examiner interprets these disclosures as implicitly showing: "identifying connection specific information related to the established connection between the client computer

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and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with of[sic] the connection specific information. . . .” this interpretation and the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element of “identifying connection specific information related to the established connection between the client computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with of[sic] the connection specific information. . . .”; furthermore, even though

Capiel lacks explicit recitation of “associating the unique identifier with of[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between of[sic] the connection specific information and the unique identifier. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 12, ll. 53-61; and col. 13, ll. 5-25, i.e., TABLE 1) implicitly shows “associating the unique identifier with of[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between of[sic] the connection specific information and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of

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Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 12, ll. 53-61; and col. 13, ll. 5-25, i.e., TABLE 1) as implicitly showing “associating the unique identifier with off[sic] the connection specific information such that information that defines consumer activity can be extracted based on the association between off[sic] the connection specific information and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 5, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel at least at (col. 7, ll. 64-67; and col. 7, ll. 30-60) implicitly shows “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; furthermore, Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=,’ is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel1@digital-impact.com, which represents, in*

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*this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel lacks a verbatim recital of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”

The Examiner interprets the above disclosures as implicitly showing: “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; this interpretation and the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; furthermore, even though Capiel lacks a verbatim recital of “wherein the unique identifier identifies a consumer’s electronic mail address. . . .” it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 7, ll. 30-60) implicitly shows “wherein the unique identifier identifies a consumer’s electronic mail address. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 7, ll. 30-60) as implicitly showing “wherein the unique identifier identifies a consumer’s electronic mail address. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 6, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page. . . ."*

Capiel at least at (FIG. 3B) implicitly shows "wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .";

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the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”

however, even though

Capiel lacks a verbatim recital of “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the one or more web sites include a plurality of links to other web pages located at a plurality of web servers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 7, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

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Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page. . . .”*

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the plurality of links to



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other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”; however, even though

Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 8, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

Capiel (col. 3, ll. 21-43) discloses: “*the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for*

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*example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page. . . ."*

Capiel at least at (FIG. 3B) implicitly shows "wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .";

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . ."; however, even though

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Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically views images of merchandise. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 9, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 6.

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Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”;

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page. . . .”*; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the plurality of links to other web pages includes a link to a web

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page from where the consumer electronically contacts a seller. . . .”; however, even though,

Capiel lacks a verbatim recital of “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the plurality of links to other web pages includes a link to a web page from where the consumer electronically contacts a seller. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 10, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 1.

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Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “information about the consumer’s movement within the one or more web sites. . . .”

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*catalog\_url . . .*” The Examiner interprets this disclosure as showing a “one or more web sites. . . .” (i.e., web sites for product catalogs).

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

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*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate( ),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

The Examiner interprets these disclosures as implicitly showing: "wherein information about the consumer's movement within the one or more web sites is stored in a log file. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein information about the consumer's movement within the one or more web sites is stored in a log file. . . ."; however, even though,

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Capiel lacks a verbatim recitation that “information about the consumer’s movement within the one or more web sites is stored in a log file. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “wherein information about the consumer’s movement within the one or more web sites is stored in a log file. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 11, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 10.



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Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*catalog\_url. . .*” The Examiner interprets this disclosure as showing a “the log file includes the addresses of the one or more web sites. . . .” (i.e., web sites for product catalogs).

The above disclosure clarifies why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the log file includes the addresses of the one or more web sites. . . .”; however, even though,

Capiel lacks a verbatim recital of “wherein the log file includes the addresses of the one or more web sites. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the log file includes the addresses of the one or more web sites. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the log file includes the addresses of the one or more web sites. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 12, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

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*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened\_count=1 where catalog\_id="+  
Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and member\_id and catalog\_id. . . ." etc.*

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ."

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"catalog\_url . . . [and] opened\_count. . . ."* The Examiner interprets this disclosure as showing a "wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ." (i.e., a web site for product catalogs); the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed

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element and limitations of “the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; however, even though, Capiel lacks a verbatim recitation of “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 13, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

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Capiel at least at (FIG. 3B) discloses an online: *“shopping basket. . . .”*

Capiel at least at (FIG. 3B) discloses: *“Shop AOL. . . .”*

Capiel at least at (col. 1, ll. 43-65) discloses: *“One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; however, even though,

Capiel lacks a verbatim recital of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) implicitly shows “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) as implicitly showing “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”*

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(see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 14, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *“the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or grater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .”*

Capiel at least at (col. 11, ll. 1-35) *“oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes duration of the consumer’s visit to a particular web site. . . .”; however, even though,

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Capiel lacks a verbatim recital of “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) implicitly shows “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) as implicitly showing “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 15, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 1, ll. 20-35) discloses: “*Targeting advertising to customer profiles has been a method to improve E-mail sales. . . .*”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

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Capiel (FIG. 7) discloses: “*Connect to DB. . .*”

Capiel (col. 10, ll. 25-58) shows a “master database. . .”

Capiel at least at (col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows a “log file. . .”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; however, even though,

Capiel lacks a verbatim recital of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12,



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ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 16, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (6,449,634; and col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

Capiel (col. 3, ll. 5-22) discloses: “*Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-*

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*mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . .”*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

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Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’s software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

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Capiel (col. 12, ll. 10-13) discloses:

*"getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . . .”* etc.

The Examiner interprets these disclosures as implicitly showing: “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and

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col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 17, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

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Capiel (6,449,634 col. 1, ll. 24-26) discloses: *“Vendor lists of prior customers provide a basis to identify the target audience.”*

Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 12, ll. 10-13) discloses:

*“getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?””*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*



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*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ." etc.*

*The Examiner interprets these disclosure as showing "the master database includes a consumer information segment that contains consumer related information. . . ."; the*

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above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of *“the master database includes a consumer information segment that contains consumer related information. . . .”*; however, even though,

Capiel lacks explicit recitation of *“the master database includes a consumer information segment that contains consumer related information. . . .”*; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 24-26; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows *“the master database includes a consumer information segment that contains consumer related information. . . .”*; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing *“the master database includes a consumer information segment that contains consumer related information. . . .”* because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”* (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 18, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 43-67) discloses: “*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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As per claim 18, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “Connect to DB. . . .”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 43-67) discloses: “*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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The Examiner interprets these disclosures as showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; furthermore,

Capiel (col. 9, ll. 1-40; and FIG. 3B) inherently shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because; for example, FIG. 3B discloses trivia games promotions, i.e., “*Trivia Games: Win \$. . .*”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col.

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7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 19, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code' . . . .” and  
“member\_id and catalog\_id. . . .” etc.*

Capiel (FIG. 3B) inherently shows “the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” material

The Examiner interprets these above disclosures as showing “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll.10-25, i.e., TABLE 1) as implicitly showing “the

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master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 20, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 3, ll. 21-43) discloses: “*the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML*



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*information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

Capiel (FIG. 3B) discloses: *"Keyworded: Tower. . . ."*

Capiel (FIG. 3B) shows "the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . ."

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The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes

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associated with the keywords. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 21, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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Capiel (FIG. 3B) discloses: “Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”

Capiel (FIG. 3B) inherently shows “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”

The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG.

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3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 22 is rejected for substantially the same reasons as independent claim 1, except that elements found at lines 5-6 and 17 of claim 1 are missing from claim 22, i.e., lines 5 & 6: “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites . . . “ and line 17: identifying the email recipient based on the retrieved unique identifier. . . .”; therefore, claim 22 is broader than claim 1.

As per claim 23, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”

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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

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*If Request.QueryString("catid") < > " " Then SQLQuery = "select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail  
software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email  
address. . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the  
HTML image tag is executed at the E-mail client 142, a request is made to a computer  
located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . ."

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . ." ; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:



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*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets all the above disclosures as implicitly showing: "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer

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movement. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify

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*the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Dependent claim 24 is rejected for the same reasons as dependent claim 3, even though explicit detail about the “establishing the connection between the consumer’s computer and the one or more web sites. . . .” limitation is not recited verbatim in claim 3 as it is recited in claim 24, the context of both dependent claims are the same and the connection limitation of claim 24 is inherently a part of claim 3.

Dependent claim 25 is rejected for the same reasons as dependent claim 4, even though explicit detail about the “IP address. . . .” connection limitation is not recited verbatim in claim 4 as it is recited in claim 25, the context of both dependent claims are the same and the “IP address” connection limitation of claim 25 is inherently a part of claim 4.

Dependent claim 26 is rejected for substantially the same reasons as dependent claim 5.

Dependent claim 27 is rejected for substantially the same reasons as dependent claim 6.

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Dependent claim 28 is rejected for substantially the same reasons as dependent claim 7.

Dependent claim 29 is rejected for substantially the same reasons as dependent claim 8.

Dependent claim 30 is rejected for substantially the same reasons as dependent claim 9.

Dependent claim 31 is rejected for substantially the same reasons as dependent claim 10.

Dependent claim 32 is rejected for substantially the same reasons as dependent claim 11.

Dependent claim 33 is rejected for substantially the same reasons as dependent claim 12.

Dependent claim 34 is rejected for substantially the same reasons as dependent claim 13.

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Dependent claim 35 is rejected for substantially the same reasons as dependent claim 14.

Dependent claim 36 is rejected for substantially the same reasons as dependent claim 15.

Dependent claim 37 is rejected for substantially the same reasons as dependent claim 16.

Dependent claim 38 is rejected for substantially the same reasons as dependent claim 17.

Dependent claim 39 is rejected for substantially the same reasons as dependent claim 18.

Dependent claim 40 is rejected for substantially the same reasons as dependent claim 19.

Dependent claim 41 is rejected for substantially the same reasons as dependent claim 20.

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Dependent claim 42 is rejected for substantially the same reasons as dependent claim 21.

As per claim 43, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . **Shop AOL** . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address*

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*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows "the unique identifier is a consumer's credit card information. . . ." at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing "wherein the unique identifier is a consumer's credit card information. . . ."

Capiel lacks explicit recitation of "wherein the unique identifier is a consumer's credit card information. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B;

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FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier is a consumer’s credit card information. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 44, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server*



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*program' with parameters 'E-mail address' and 'unique mail code' . . . " and "member\_id and catalog\_id. . . " etc.*

Capiel (FIG. 3B) discloses: *"Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . "*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

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Capiel (FIG. 3B; col. 12, ll. 51-63; and col. 7, ll. 30-60) inherently shows “the unique identifier is a consumer’s credit card information. . . .” because the ID number could be any given unique number chosen.

The Examiner interprets these above disclosures as showing “the unique identifier is a consumer’s credit card information. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier is a consumer’s credit card information. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification

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and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 45, Applicant is responsible for all that the applied reference discloses. For example, Capiel (6,449,634); (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A method for electronically identifying a consumer without requiring consumer registration. . . .”

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

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Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType=" " Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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Set . . .

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.

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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of “includes a web site address, sent to the consumer in an electronic mail message with a unique identifier. . . .”

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is*

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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67 ; and col. 8, ll. 1-40) as showing "a unique identifier embedded in a web site address for uniquely identifying the particular consumer; parsing the web site address to find the unique identifier. . . ."

Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*



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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

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*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened\_count=1 where catalog\_id="+  
Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers."

Capiel lacks explicit recitation of "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on

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the client computer by any servers. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per Claim 46, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45.

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Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where  
name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count  
from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields(“opened”).ActualSize=0 Then SQLQuery=“update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id=”+*

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*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 12, ll. 53-

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61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 47, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45. Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with at least one of the connection and environment specific information such that information that defines consumer activity. . . .”; furthermore,

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Capiel (FIG. 7) discloses: *"Connect to DB. . . ."*

Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows "identifying at least one connection and environment specific information related to the established connection between the consumer's computer and the one or more web sites

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML*

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*information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

The Examiner interprets these above disclosures as showing: "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 12, ll. 53-61; col. 13, ll. 5-



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10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) implicitly shows “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 13, ll. 5-10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) as implicitly showing “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)); “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier.”

As per claim 48, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (FIG. 7) discloses: “*Get Client’s Type of Browser (i.e., client’s E-mail software)* . . . ” [and] “*Associate in the DB the Type of Browser with Clients Email address*”.

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Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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Set . . .

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back*

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*to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

The Examiner interprets the above disclosures as showing: "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; therefore,

Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; however, even though,

Capiel lacks explicit recitation of "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; it would have been obvious to a person of ordinary skill in the art at the

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time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 49, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

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Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML-image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . **Shop AOL** . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

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Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows "the unique identifier relates to credit card information of the consumer. . . ." at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing "wherein the unique identifier relates to credit card information of the consumer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the unique identifier relates to credit card information of the consumer. . . ."; however, even though,

Capiel lacks explicit recitation of "wherein the unique identifier relates to credit card information of the consumer. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ;

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and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to credit card information of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to credit card information of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 50, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.



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Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “the unique identifier relates to [sic] electronic mail of the consumer. . . .”

The Examiner interprets these above disclosures as showing “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed

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element and limitations of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 51, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

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Capiel (col. 2, ll. 8-13) discloses: *“The processing may further determine if hyper text mark up language (HTML) statements or dynamic HTML (DHTML) statements or Java applets can be executed by the E-mail client.”*

Capiel (col. 4, ll. 23-30) discloses: *“The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML . . . . The sensor database may be a relational SQL database implemented for example on a personal computer or on a UNIX server. . . .”*

The Examiner interprets these above disclosures as showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) implicitly shows “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the

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disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) as implicitly showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 52, Applicant is responsible for all that the applied reference discloses. For example,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., an “established connection independent from any consumer profile information previously stored on the client computer. . . .”

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

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Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:") +*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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Set . . .

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.

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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites, in response to the email recipient selecting a reference to the web site address included in the electronic mail message. . . .”

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 6, ll. 17-18) discloses: *http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . .*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor*



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*message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’ software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

The Examiner interprets the above disclosure (i.e., Capiel col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40) as showing “A unique identifier embedded in a URL provided to a consumer by way [sic] electronic mail, such that when the consumer selects the URL a connection is established between a consumer computer having a first IP address and a web server providing access to one or more web sites, wherein the web server receives the URL via said established connection independent from any consumer profile information previously stored on the client computer, wherein the web server parses the URL for the unique identifier. . . .”

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Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“‘Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count*

*from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set*

*opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the*

*HTML image tag is executed at the E-mail client 142, a request is made to a computer*

*located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these above disclosures as implicitly showing: "wherein the IP address is recorded in a log file in association with the unique identifier. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that "It would have been obvious to a person or ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with "the IP address is recorded in a log file in association with the unique identifier. . . ." in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer's computer. . . ."; furthermore, even though,

Capiel lacks explicit recitation of "the IP address is recorded in a log file in association with the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the IP address is recorded in a log file in association with the unique identifier. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67;

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col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the IP address is recorded in a log file in association with the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per independent claim 75, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A computer-implemented method for electronically tracking web pages visited by an email recipient without requiring advanced registration. . . .”

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

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Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

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*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set ...*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*



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*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid")). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; col. 2, ll. 1-20; col. 3, ll. 5-67; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing "establishing a connection between a server computer and a client computer used by the email recipient to receive the email, in response to the email recipient selecting the link, wherein the server computer provides access to the one or more web pages identified by the URL. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

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Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com....>

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, [email=gcapiel@digital-impact.com](mailto:email=gcapiel@digital-impact.com), which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"<http://tower.m0.net/m/u/t.asp?email=gcapiel%40digital-impact.tngi.com....>" which includes [email=gcapiel@digital-impact.com](mailto:email=gcapiel@digital-impact.com) which is the unique identifier embedded within the web site address:*

*<http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com....> and the unique identifier uniquely identifying an email recipient.*

Capiel (col. 7, ll. 64-67; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is*

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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40)) as showing "embedding a unique identifier within a uniform resource locator (URL), the unique identifier uniquely identifying an email recipient, the URL identifying one or more web pages; including the URL in [sic] form of a link in an email sent to the email recipient, wherein selecting the link provides the email recipient with access to the one or more web pages . . . providing the unique identifier to the server computer by way of a request submitted by the client computer to access said one or more web pages, independent from any profile information previously stored on the client computer, wherein the request includes the URL in which the unique identifier is embedded; parsing the URL in the request to retrieve the unique identifier embedded n the URL; identifying the email recipient based on the retrieved unique identifier. . . ."

Capiel (col. 1, ll. 43-67) discloses: "*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the*

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*home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

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```
'Log when the catalog was first opened and ho many time since  
If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened_count  
from catalogs where catalog_id="+  
Request.QueryString("catid")  
Set oRs=oCom.Execute(SQLQuery)  
If Not oRs.EOF Then  
    If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened_count=1 where catalog_id="+  
Request.QueryString("catid"). . . .
```

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

The Examiner interprets these above disclosures as implicitly showing: "automatically storing the unique identifier in association with the IP address of the client computer n a

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log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that “It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” in support of the claimed element and limitations of “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “automatically storing the unique identifier in association with the IP address of the client computer in a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; it would have been obvious to a person of

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ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify

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Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 76, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 75.

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*



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*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ." etc.*

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Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

The Examiner interprets these disclosures as implicitly showing: "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

```
Response.ContentType="image/JPG"  
If Request.QueryString("E-mail"=) " Then Call LogError("Error 534: No E-mail  
address passed:") +  
Request.QueryString("E-mail"))  
Exit Sub  
End If  
oConn.open Session ("DIDB_ConnectionString")  
browserType=Request.ServerVariables("HTTP_User_Agent")  
If browserType="" Then  
BrowserType="HTML"
```

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

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The Examiner interprets the above disclosures as implicitly showing: “extracting the access information for a particular email recipient. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed elements and limitation of “extracting the access information for a particular email recipient. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “extracting the access information for a particular email recipient. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “extracting the access information for a particular email recipient. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “extracting the access information for a particular email recipient. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 77, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 75.

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

The Examiner interprets these disclosures as implicitly showing: “an address of a web page visited by the email recipient. . . .”

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Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *“the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or grater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .”*

Capiel at least at (col. 11, ll. 1-35) *“oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes duration of the consumer’s visit to a particular web site.”

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

Capiel at least at (FIG. 3B) discloses an online: *“shopping basket. . . .”*

Capiel at least at (FIG. 3B) discloses: *“Shop AOL. . . .”*

Capiel at least at (col. 1, ll. 43-65) discloses: *“One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .”*

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The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE

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1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 78 is rejected for the same reasons as independent claim 75.

Dependent claim 79 is rejected for the same reasons as dependent claim 76.

Dependent claim 80 is rejected for the same reasons as dependent claim 77.

Independent claim 81 is rejected for the same reasons as independent claim 75.

As per claim 82, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 81.

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”

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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*



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*If Request.QueryString("catid") < > " " Then SQLQuery = "select opened,opened\_count  
from catalogs where catalog\_id=" +*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id=" +*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

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The Examiner interprets these disclosures as implicitly showing: “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *“The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.”*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType=“image/JPG”*

*If Request.QueryString(“E-mail”)=” “ Then Call LogError(“Error 534: No E-mail address passed.”+*

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*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosures as implicitly showing: "extracting the access information for a particular email recipient. . . ."

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the access information for a particular email recipient. . . ."; furthermore, even though,

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Capiel lacks explicit recitation of “extracting the access information for a particular email recipient. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “extracting the access information for a particular email recipient. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “extracting the access information for a particular email recipient. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Capiel (col. 3, ll. 21-43) discloses: “the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail

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*sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

The Examiner interprets these disclosures as implicitly showing: "an address of a web page visited by the email recipient. . . ."

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *"the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or greater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and*

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*increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .*

Capiel at least at (col. 11, ll. 1-35) “*oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')*”

The Examiner interprets these disclosures as implicitly showing: “duration of the [consumer’s] visit [to a particular web site].”

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

Capiel at least at (FIG. 3B) discloses an online: “*shopping basket. . . .*”

Capiel at least at (FIG. 3B) discloses: “*Shop AOL. . . .*”

Capiel at least at (col. 1, ll. 43-65) discloses: “*One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .*”

The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure

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of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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Therefore, as to claims 1-52 and 75-82, it is well settled that the test for a *prima facie* case of obviousness is not whether the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the teachings of the references would have suggested in the broadest interpretation to those of ordinary skill in the art. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It is also well settled in the law that

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

( a ) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,



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( B ) the difference or differences in the claim over the applied reference(s),

( C ) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

( D ) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

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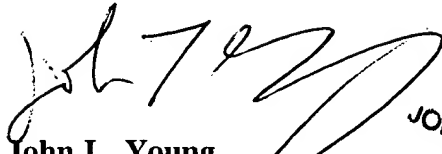
To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or reference when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicant's disclosure. . . . (See MPEP 706.02(j)).

In this case, the Prior Office Action relies upon the combined teachings, suggestions and motivations found in the applied reference as well as the knowledge generally available to one of ordinary skill in the art and does not include knowledge gleaned from the Applicant's disclosure. Furthermore, the prior Office action indicates the requisite "reasonable expectation of success" is established by virtue of modifying the teachings of the patent to Capiel without rendering the references unsuitable for its intended purpose. Furthermore, the modification of the teachings in the prior art reference suggests all the claim limitations. Finally, the teachings and suggestions for the basis of the modifications and the reasonable expectation of success are both found in the prior art and not based on Applicant's disclosure.

**(12) Examiner's Answer, Conclusion**

For all of the reasons stated above, Appellant's brief fails to overcome the obviousness rejections of claims 1-52 & 75-82. And for the above stated reasons, the rejections must be sustained.

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John L. Young

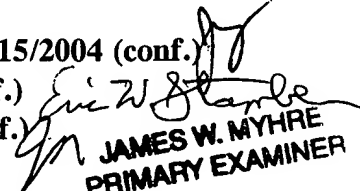
November 15, 2004

Respectfully, presented,

JLY 09/15/2004 (conf.)

ES (conf.)

JM (conf.)



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